

## **complaint**

Mr O complains that Rational Foreign Exchange Limited failed to carry out sufficient checks when it made a payment for him resulting in the loss of his money.

## **background**

Mr O opened an account with Rational Foreign Exchange. It exchanged the 80,000 Euros he gave it into US dollars and sent this on to a third party. That third party did not provide the services he expected and he has lost his money. He does not think that Rational Foreign Exchange carried out sufficient checks. He is represented in this complaint and the representative says that his registration form was not standard and contained inconsistencies. The representative also says that Rational Foreign Exchange has not complied with money laundering requirements and sent the money to a business that was not authorised by the Financial Conduct Authority.

The adjudicator did not recommend that the complaint be upheld:

- He could not see that Rational Foreign Exchange had acted incorrectly as it had followed Mr O's instructions.
- It said that there was no standard registration form and that the one Mr O used was a translated and modified one. As this was for registration only he could not see why this would raise any concerns about the payment. The part of the form that asked for the relationship to beneficiary was not mandatory but just helped identify whether this was a third party transfer.
- Any spelling mistakes in an email similarly would not have given grounds for Rational Foreign Exchange to be suspicious.
- As Mr O did not know he was being defrauded he would most likely have provided or corrected any information had he known. He intended to make this payment.
- The fact that the third party was not regulated to carry out authorised activities was not relevant. He said that Rational Foreign Exchange would make payments to a number of different individuals and businesses.
- The money sent was legitimately that of Mr O so he could not see how money laundering regulations could be relevant in making this payment.
- Neither Rational Foreign Exchange nor any other business making a payment in such circumstances could be required to carry out any further due diligence about the third party. There was no evidence that at the time there were any relevant restrictions on making this payment.

The representative of Mr O did not agree. The problem with the form had not been addressed correctly. The representative said that it could not be assumed that Mr O would have gone ahead if he had been asked further questions. Rational Foreign Exchange normally required the provision of identification. It was still said that money laundering regulations had been breached. This was due to the way in which the third party misused the funds.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

This service provides informal dispute resolution and is not the regulator. The simple fact is that Mr O wanted to make this payment and Rational Foreign Exchange acted on his

instructions. I don't consider that the identified issues with the registration form gave rise to any ambiguity in his instructions. Rational Foreign Exchange was dealing with Mr O.

The adjudicator has set out in detail his views about whether Rational Foreign Exchange bore any further duty to carry out due diligence about the beneficiary. I agree with his conclusion that it did not. I would expect it to comply with any investigation by the relevant authorities and provide all the information required about this payment. But I'm afraid that the body responsible for Mr O's loss here is that third party.

I don't doubt what Mr O says – that he was the victim of a terrible fraud by that third party and was taken in by its assurances. I understand that the impact of this has been devastating for him personally. I know he will be very disappointed when I say that I do not have a basis to require Rational Foreign Exchange to do any more. If he does not accept my decision he remains free to pursue this matter in legal proceedings subject to any relevant time limits.

### **my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 6 February 2017.

Michael Crewe  
**ombudsman**